

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 12.11.115 and 12.11.501 and the) PROPOSED AMENDMENT AND
adoption of NEW RULE I regarding) ADOPTION
recreational water use on Lake Five)

TO: All Concerned Persons

1. On April 14, 2010 at 6:00 p.m. the commission will hold a public hearing at the Fish, Wildlife and Parks Region 1 offices located at 490 North Meridian Road, Kalispell, Montana to consider the amendment and adoption of the above-stated rules.

2. The commission will make reasonable accommodations for persons with disabilities who wish to participate in the rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, please contact the commission no later than April 7, 2010, to advise us of the nature of the accommodation that you need. Please contact Jessica Fitzpatrick, Fish, Wildlife and Parks, P.O. Box 200701, Helena, MT 59620-0701; telephone (406) 444-9785; fax (406) 444-7456; e-mail jfitzpatrick@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

12.11.115 NO WAKE ZONES FOR LAKES GREATER THAN 35 ACRES IN THE WESTERN FISHING DISTRICT (1) This rule applies to any public lake or reservoir in the western fishing district greater than 35 acres and therefore not regulated in ARM 12.11.110.

(2) All watercraft on public lakes or reservoirs greater than 35 surface acres within the western fishing district are limited to a controlled no wake speed as defined in ARM 12.11.101 from shoreline to 200 feet from the shoreline. The following are exceptions under this rule:

(a) personal watercraft which must maintain a certain minimum operating speed to remain upright and maneuver in the water may travel at that minimum operating speed following the most direct route through the no wake zone to and from shore;

(b) motorized watercraft towing a water skier from or to a dock or the shore, except watercraft falling under this exception must travel the most direct route through the no wake zone to and from the dock or shore;

(c) Crystal Lake located within the Thompson Chain of Lakes, Lincoln County;

(d) Horseshoe Lake located within the Thompson Chain of Lakes, Lincoln County;

(e) Lake Five located in Flathead County;

~~(e)~~ (f) Loon Lake located within the Thompson Chain of Lakes, Lincoln County;

~~(f)~~ (g) Lower Thompson Lake located within the Thompson Chain of Lakes, Lincoln County;

~~(g)~~ (h) McGregor Lake located within the Thompson Chain of Lakes, ~~Lincoln~~ Flathead County;

~~(h)~~ (i) Middle Thompson Lake located within the Thompson Chain of Lakes, Lincoln County; and

~~(i)~~ (j) Upper lobe of Upper Thompson Lake located within the Thompson Chain of Lakes, Lincoln County.

(3) Any more specific regulations adopted by the commission pertaining to bodies of water affected by this rule are controlling.

~~(4) This rule is effective May 15, 2001.~~

AUTH: 23-1-106, 87-1-301, 87-1-303, MCA

IMP: 23-1-106, 23-1-501, 87-1-303, MCA

12.11.501 LIST OF WATER BODIES The following is a list of specific regulations on bodies of water with the reference where the rules regarding those bodies of water are located:

(1) through (64) remain the same.

(65) Lake Five

NEW RULE I

(65) through (112) remain the same but are renumbered (66) through (113).

AUTH: 23-1-106, 87-1-301, 87-1-303, MCA

IMP: 23-1-106, 87-1-303, MCA

4. The rule as proposed to be adopted provides as follows:

NEW RULE I LAKE FIVE (1) Lake Five is located in Flathead County.

(2) ARM 12.11.115 exempts Lake Five from the controlled no wake speed defined in ARM 12.11.101(1).

(3) Personal watercraft as defined in 23-2-502, MCA are prohibited.

(4) All vessels towing a person water skiing, tubing, or any similar activity must travel in a counter-clockwise direction.

AUTH: 23-1-106, 87-1-303, MCA

IMP: 23-1-106, 87-1-303, MCA

5. STATEMENT OF REASONABLE NECESSITY: The Department of Fish, Wildlife and Parks decided to develop a fishing access site (FAS) on property it owns on Lake Five. The commission is proposing the above-stated rules in response to concerns expressed by certain Lake Five landowners. The landowners are concerned about the increased traffic, safety issues, noise, and user conflicts due to the public having access to Lake Five via the FAS.

6. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Fish, Wildlife and Parks, Legal Unit, P.O. Box 200701, Helena, MT 59620-0701, fax (406) 444-7456, or e-mail them to jfitzpatrick@mt.gov. Any comments must be received no later than April 22, 2010.

7. Jessica Fitzpatrick or another hearings officer appointed by the department has been designated to preside over and conduct this hearing.

8. The department maintains a list of interested persons who wish to receive notice of rulemaking actions proposed by the commission. Persons who wish to have their name added to the list shall make written request that includes the name and mailing address of the person to receive the notice and specifies the subject or subjects about which the person wishes to receive notice. Such written request may be mailed or delivered to Fish, Wildlife, and Parks, Legal Unit, P.O. Box 200701, 1420 East Sixth Avenue, Helena, MT 59620-0701, faxed to the office at (406) 444-7456, or may be made by completing the request form at any rules hearing held by the department.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ Bob Ream

Bob Ream, Chairman
Fish, Wildlife and Parks Commission

/s/ William A. Schenk

William A. Schenk, Rule Reviewer
Department of Fish, Wildlife and Parks

Certified to the Secretary of State March 15, 2010